

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

JENNIFER ARTESI f/k/a
JENNIFER TAPSCOTT,
Plaintiff,

vs.

Docket No.:
1:19-CV-00214-AJ

DEMOULAS SUPER
MARKETS, INC., d/b/a
MARKET BASKET and
DENNIS LABATTE,
Defendants.

DEPOSITION OF JENNIFER ARTESI

Deposition taken by agreement
at the Fox Hill Farm,
333 Holderness Road, Center
Sandwich, New Hampshire, on
Thursday, November 7, 2019,
commencing at 10:10 a.m.

Court Reporter: Sharon R. Fagan, LCR, RPR
N.H. Licensed Court Reporter
No. 64

1 A. I'm not sure.

2 Q. You had availed yourself of FMLA time
3 while you had been at DeMoulas on a couple of
4 occasions; correct?

5 A. Yes.

6 Q. All right. So you had a general idea
7 of what FMLA time meant. It was time off that you
8 got from the employer. Sometimes it's paid and
9 sometime it's not; correct?

10 A. Yes.

11 Q. And yet you didn't make any request for
12 FMLA time from Shaw's for your shoulder surgery?

13 A. No, but Shaw's is run different. Can I
14 explain?

15 Q. Sure.

16 A. You have to accumulate time to be able
17 to get certain benefits. Like, you have to work so
18 much to get an hour of vacation time. I don't know
19 if that has anything to do with FMLA, but on certain
20 things you can't just get it. You have to earn
21 things. And I don't know, but, like I said, I did
22 not look into it.

23 Q. When you were hired to work at Shaw's

1 Q. And how did you come to seek treatment
2 with G & G Healthcare Services?

3 A. When I was in the detox facility, they
4 put people -- I don't know how to explain it -- put
5 people in certain places, different treatment
6 centers, and then I was chosen to go to that one.

7 Q. Okay. And what led you to a detox
8 facility?

9 A. Seeking treatment.

10 Q. When and for what purposes?

11 A. December 29th, 2016, for alcoholism.

12 Q. I'm sorry, what?

13 A. Alcoholism.

14 Q. Okay. And what treatment facility did
15 you first seek care at on December 29th, 2016?

16 A. I believe it was Palm Partners,
17 P-a-l-m, in West Palm Beach.

18 Q. Okay. How did you end up seeking
19 treatment in West Palm Beach for detox as opposed to
20 New Hampshire?

21 A. A friend of mine had called a number --
22 not sure where he got it -- and got referred to that
23 place, and then they accepted me and flew me down.

1 Q. Who's the friend?

2 A. Marc Plante.

3 Q. What caused Marc Plante to get you into
4 -- or help get you into a detox facility?

5 A. Because I had been thinking about it
6 and I had asked him, and he just went and called,
7 found someplace for me.

8 Q. All right. And what is Marc Plante's
9 address? I don't see him listed as somebody who has
10 knowledge.

11 A. No, I never thought of him.

12 Q. Okay. So what's his address and what's
13 his contact information?

14 A. He lives in Alton, off the circle. I
15 don't know the address.

16 MS. FEENEY: Can you mark that, please?

17 I'll send your attorney a request for
18 the follow-up information.

19 Q. (By Ms. Feeney) He's a friend, not a
20 healthcare provider?

21 A. No.

22 MS. JOHNSON: Objection to form and I
23 guess the answer. You asked a compound question.

1 Florida?

2 MS. JOHNSON: Objection to form.

3 Q. (By Ms. Feeney) If anyone.

4 A. I had spoken to my husband before.

5 Q. Had your husband made any
6 recommendations for you entering detox?

7 A. He was calling around.

8 Q. So walk me through how it happened.
9 What did Marc do and how did you end up in the detox
10 facility in Florida?

11 MS. JOHNSON: Objection to form. You
12 can answer.

13 THE WITNESS: I can?

14 MS. JOHNSON: Yeah.

15 THE WITNESS: I was on my way home and
16 it was a blizzard. I couldn't make it down the road
17 to my residence and I was at the Alton Circle, so I
18 went over to Marc's house. There I started drinking
19 and then along with that, I was talking about going
20 to a detox facility and saying how much I needed it
21 and wanted it, and he looked the number up and
22 called.

23 Q. (By Ms. Feeney) And if I wrote it down

1 Q. Was that inpatient or outpatient care?

2 A. Inpatient.

3 Q. For how long?

4 A. Seven days, maybe.

5 Q. And who was the healthcare provider
6 that you saw?

7 A. I don't remember.

8 Q. What led you to seek treatment at the
9 Portsmouth Pavilion in 2000?

10 A. My drinking was interfering with
11 everyday life.

12 Q. Were you working at the time?

13 A. Yes.

14 Q. And where were you working?

15 A. DeMoulas Market Basket.

16 Q. Were you working full-time at that time
17 you entered the Portsmouth Pavilion?

18 A. Yes.

19 Q. Did you have to take time off?

20 A. Yes.

21 Q. Did you put in for FMLA time?

22 A. I believe so.

23 Q. And you were able to take the time and

1 then return to work?

2 A. Yes.

3 Q. How long were you out of work at that
4 time, do you recall?

5 A. I don't remember.

6 Q. Was it longer than the seven days you
7 were an inpatient at the Portsmouth Pavilion?

8 A. I'm not sure.

9 Q. What other healthcare providers were
10 you seeing in 2000 --

11 A. I can't remember.

12 Q. -- other than Dr. Yarian?

13 A. I know I had seen -- just before that,
14 I had seen Dr. Schopick in Portsmouth.

15 Q. Do you know how to spell Dr. Schopick's
16 name?

17 A. S-c-h --

18 Q. It's an "S"?

19 A. Yes.

20 Q. And what kind of doctor is
21 Dr. Schopick?

22 A. Psychiatrist. The one that prescribes
23 the medications.

1 we discussed may no longer be with G & G; G & G is
2 another facility.

3 A. Yes.

4 Q. And where is that facility located?

5 A. Miami, Florida.

6 Q. And why were you admitted to the G & G
7 facility in Miami, Florida, after your stay at
8 Palm Partners?

9 A. For further treatment of alcoholism.

10 Q. How long were you there?

11 A. Until February 8th, 2017.

12 Q. And you told me that facility is in
13 Miami; is that correct?

14 A. Yes.

15 Q. Were you at the same G & G facility for
16 the entire time?

17 A. Yes.

18 Q. And when you were discharged from that
19 facility on February 8, 2017, where did you go?

20 A. I came home.

21 Q. To New Hampshire?

22 A. Yes.

23 Q. To the address you told us earlier in

1 hospital?

2 A. From the 2nd to the 4th.

3 Q. All right. So just two nights?

4 A. Yes.

5 Q. And then you went back to G & G?

6 A. Yes.

7 Q. What do you think you talked to your
8 husband about for that 30-minute conversation?

9 A. About what had happened. When I was
10 probably going to leave G & G. I don't recall.

11 Q. You don't have a recollection? I wrote
12 down that you left G & G on or about February 4th,
13 2017, and it looks like there are a few more calls to
14 your husband.

15 When exactly did you come back to
16 New Hampshire?

17 A. February 8th.

18 Q. Where did you stay between when you got
19 out of G & G and when you came back to New Hampshire?

20 A. At home.

21 Q. I didn't mean to confuse you with the
22 question. Let me ask it again.

23 Did you get discharged from G & G and

1 Q. (By Ms. Feeney) I'd like to show you
2 what we've had marked as Exhibit 7, again, letters
3 concerning benefit continuation notices. This time
4 frame is August of 2013.

5 MS. JOHNSON: So look at each page so
6 you know what you're looking at.

7 Q. (By Ms. Feeney) What caused you to be
8 out of work in August of 2013, do you recall?

9 A. I tore my bicep on my left shoulder.

10 Q. Was that a work-related injury?

11 A. Yes.

12 Q. Did you have to have surgery?

13 A. Yes.

14 Q. And how long were you out of work, do
15 you recall? Just approximately.

16 A. Does it say?

17 Q. No. That's why I'm asking.

18 A. 10, 11 weeks.

19 Q. Okay. So a period of time longer than
20 a month or so.

21 A. Yeah.

22 Q. And those are the notices that you got
23 as a result of being out on leave in Exhibit 7;

1 correct?

2 A. Yes.

3 Q. All right. Would you take a look,
4 please, at Exhibit 4, Page JA-17.

5 A. (Witness complied.)

6 (Off-the-record discussion.)

7 (Back on the record.)

8 Q. (By Ms. Feeney) Are you at Page JA-17
9 on our Exhibit No. 4?

10 A. Yes.

11 Q. Okay. Great. That is a note from
12 Dover Women's Health taking you out of work from
13 May 24th, 2016 to June 10th, 2016.

14 Do you see that?

15 A. Yes.

16 Q. What was the reason you were out of
17 work in May to June of 2016?

18 A. I had had a hysterectomy done a month
19 or so before. I came back, I lifted something, I
20 pulled a muscle. I went to see him, so he wanted me
21 to rest in case anything serious had happened.

22 Q. How long were you out when you had the
23 hysterectomy?

1 A. I'm not sure.

2 Q. More than a month?

3 A. I'm not sure, honestly.

4 Q. All right. And was it approximately a
5 month before June of 2016? So was it in March or
6 April of '16?

7 A. Correct.

8 Q. All right. Can you walk me through
9 your understanding of what you needed to do to take
10 leave time when you worked at DeMoulas, whether it
11 was for a day or whether it was going to be for a
12 medical procedure that kept you out for more than a
13 day? What would you typically have to do?

14 A. Usually ask first, and then fill out
15 paperwork and send it to the HR person.

16 Q. So you would request if you were going
17 to take the time off, and then assuming that whoever
18 you requested said okay, and you then would fill out
19 leave paperwork; is that correct?

20 A. Yes.

21 Q. Do you understand what FMLA or Family
22 Medical Leave is?

23 A. If yourself or somebody in your family

1 needs to take time off from work, it keeps your job.

2 Q. Did you ever make a request for FMLA
3 leave while you were at Shaw's?

4 A. No.

5 Q. And you did make requests for FMLA
6 leave when you worked at DeMoulas; correct?

7 A. Yes.

8 Q. Do you know on how many occasions?

9 A. Probably all my surgeries.

10 Q. All right. Do you have an
11 understanding of how much time FMLA provides?

12 A. 12 weeks a year.

13 Q. 12 weeks? And do you have to earn that
14 or is that an automatic 12 weeks?

15 MS. JOHNSON: Objection to form.

16 Q. (By Ms. Feeney) Sure. You can answer.

17 A. I'm not sure when you first start how
18 long it would take, but then I think once you're
19 established, I don't know how, but then you're
20 allowed. I think it's just for full-timers, but I'm
21 not positive.

22 Q. Do you have to have a doctor help fill
23 out some of that paperwork for FMLA leave?

1 Q. Okay.

2 A. Oh, you want to know --

3 Q. Everything. Whether you take it once a
4 year or whether you take it once an hour.

5 Do we have them all?

6 A. Prilosec.

7 Q. What is that?

8 A. For my stomach, acid reflux.

9 Q. Anything else?

10 A. No.

11 Q. All right. So we just missed Vistaril.
12 All right. Back to Exhibit 12.

13 So you went to see Dr. Yarian on
14 February 15th. What was your status of work at
15 Market Basket on February 15th, 2017?

16 A. I thought I still had a job.

17 Q. When you returned to New Hampshire on
18 February the 8th, did you call anyone at
19 Market Basket?

20 A. That day, no.

21 Q. When was the first time you called
22 someone at Market Basket about your return to
23 New Hampshire?

1 Q. Okay. And what number does that
2 connect to? What is that the phone number for?

3 A. The Somersworth Market Basket.

4 Q. Somersworth.

5 (Off-the-record discussion.)

6 (Back on the record.)

7 Q. (By Ms. Feeney) So at 3:06 p.m. on
8 February the 28th, you called the Somersworth
9 Market Basket; is that correct?

10 A. Yes.

11 Q. And that's the first time you called
12 your employer after returning to New Hampshire on
13 February the 8th; am I correct?

14 A. Yes.

15 Q. And you had seen Dr. Yarian on
16 February the 15th; is that correct?

17 A. Yes.

18 Q. So help me understand why Exhibit 12
19 has a date of February 22nd, 2017, on it.

20 Did you ask him for a note while you
21 were there on February 15th?

22 A. Yes.

23 Q. And seven days later, he writes

1 A. February 28th.

2 Q. Okay. That wasn't my question. So let
3 me ask it again, so that I'm very clear.

4 We know you got back to New Hampshire
5 on February 8th, because you've testified to that and
6 the medical records reflect that, at least the ones I
7 have thus far.

8 You called the store on February 28th.
9 We've established that; correct?

10 A. Yes.

11 Q. My question is, why didn't you call a
12 day or two after you got back?

13 A. I didn't want -- I didn't want to deal
14 with Labatte.

15 Q. You already said that.

16 MS. JOHNSON: Okay. But that's her
17 answer. You just asked her why.

18 MS. FEENEY: But I want to finish this
19 up.

20 Q. (By Ms. Feeney) You called Jerry
21 Paquette on the 28th, right?

22 A. Yes.

23 Q. Why didn't you call Jerry Paquette on

1 the 9th or 10th of February?

2 A. Because it was Friday. Jerry wasn't
3 there. And me and my husband were talking about
4 letting them know, so my husband made the phone call
5 so I wouldn't have to -- I was a mess. I didn't want
6 to get on the phone with him.

7 Q. Okay. Let me talk a little bit more
8 about this.

9 So you didn't want to call the store
10 when you returned. Do I have that correct?

11 A. Yeah.

12 Q. Yet, you called Jerry Paquette on
13 February the 28th, 20 days later; correct?

14 A. Yes.

15 Q. My question is, why you didn't call
16 Jerry Paquette five days later or ten days later or
17 six days later? Why did you wait 20 days to call
18 Jerry Paquette?

19 MS. JOHNSON: Objection to form.

20 Q. (By Ms. Feeney) You can answer. Why
21 did you wait 20 days to call Jerry?

22 A. Well, my husband called to inform them
23 I was back, and then I wanted -- once I found out

1 your Complaint, please?

2 A. Okay.

3 Q. Have you read that?

4 A. Yes.

5 Q. It says, and I quote, Paragraph 41,
6 "Upon information and belief, in approximately 2016,
7 another employee had been out of work and extremely
8 exhausted her FMLA leave for both her own medical
9 conditions as well as those of family members,
10 however, she was not terminated."

11 Who are you referring to?

12 A. Theresa Gutowsky (phon.).

13 Q. Do you know how to spell her last name?

14 A. No.

15 Q. It starts with --

16 A. "G" --

17 Q. "G"?

18 A. -- "u-t" --

19 Q. And how did you pronounce it?

20 A. Gutowsky.

21 Q. And how is it that you are aware of how
22 much FMLA leave time that Theresa had?

23 A. Because we had talked. She had had a